

1 A Okay, well I started in the 1950's.
2 I was going to Westchester Community College and I
3 took two years of a building technology course.
4 After that, I went into the army and I joined
5 specifically a three year period to get into the
6 core of engineers and I did not spend all that time
7 in there but I did spend a good part of it in the
8 core of engineers.

9 After I got out of the military, I
10 went to work at the New York City Housing Authority
11 and at that time, I realized to further my career,
12 I needed to do more courses so, I went to city
13 college at night, enrolled in The School of
14 Engineering and Architecture.

15 I started that in 1961 and I
16 graduated in 1966 with a bachelors of civil
17 engineering degree.

18 In 1971 I took engineering license
19 examination, passed that and became a licensed
20 engineer with civil speciality.

21 Q Could you tell the Court other than
22 a civil engineer, are there other types of
23 engineers?

24 A Yes, there are other branches of
25 engineering. There is a mechanical, electrical

1 civil engineering and so forth.

2 Q Could you describe for the Court
3 your employment in the field of engineering since
4 your license took place?

5 A I started in 19857 working for the
6 New York City housing authority. We built, at that
7 time, high rise apartment buildings for low income
8 housing. I was involved in the engineering part, we
9 would drive piles, steel piles to create
10 foundations. I would monitor the driving of the
11 piles and I examined foundations as they were being
12 constructed, so that the soil or rock was
13 acceptable for placing down foundation. I inspected
14 the steel. Most of that work was designed by
15 outside consultants but some of it was in-house
16 design and I did some of the finishing work, like
17 the brickwork and the interior portion and so on.

18 Somewhere along the line after
19 about ten years or so, I moved over to the New York
20 City Department of General Services. That
21 constructed more diverse buildings. They built
22 libraries, fire houses, police stations, community
23 service centers and I worked with them as
24 construction manager.

25 By that time, I guess I had gotten

1 my professional engineering license and I was able
2 run these projects on my own. Not only did I
3 monitor all the construction going on but I was
4 responsible for it. I handled the payments, and
5 things of that nature.

6 Q Did there come a time that you left
7 the employment of the City of New York?

8 A Yes, I took early retirement in
9 1984. I started to work part time doing some
10 engineering work on my own and I decided that after
11 a point, I could actually make more money working
12 on the outside. I already achieved a level of
13 retirement benefits and I decided to go out on my
14 own and I did that in 1984.

15 Q And you established your own
16 practice in 1984; correct?

17 A Yes.

18 Q Tell us what you services you
19 performed in your private practice?

20 A Presently, I do things like design
21 small building structures. I work on projects like
22 when a person wants to add a deck at the back of
23 the house, plus when somebody wants to build a
24 two-car garage, I'm working on that. I'm doing for
25 another person who wants to do some work in

1 Greenburgh, I'm doing site survey, which includes
2 wetlands survey and slope survey.

3 I do building inspections and house
4 inspections. I do design of structures. I
5 investigate retaining walls, such as the one in
6 question. I also designed retaining walls, so I
7 have right now sort of a diverse practice and I
8 keep my fingers involved in many things and I
9 consult with others and I take required engineering
10 renewal courses, so I have to stay up on a great
11 deal of what is going on.

12 Q In connection with your practice as
13 a professional engineer since 1984 forward, have
14 you ever had occasion to testify in court?

15 A Yes, I have.

16 Q How many times?

17 A I'm going who estimate maybe five
18 or six times.

19 Q And in what capacity?

20 A As an expert witness for either the
21 Plaintiff or the Defendant.

22 Q In the field of course of civil
23 engineering?

24 A Yes, engineering topics.

25 Q Do you have memberships in any

1 professional society?

2 A I belong to the National
3 Professional Engineering Society and American
4 Society of Civil Engineers. I belong to several
5 home inspection organizations, such as the national
6 academy of building inspectors. I belong to an
7 organization called ASHI. Those are about the
8 primary organizations I'm affiliated with.

9 Q Mr. Annunziata, did you prepare a
10 curriculum vite which sets forth your education
11 employment, experience in the field of engineering?

12 A Yes, I do I have it.

13 MRS. MULLINS: May I approach?

14 THE COURT: Yes.

15 MRS. MULLINS: And the record will
16 reflect that I handed Mr. Annunziata a copy
17 of a curriculum vite with his name on it.

18 Q That is that what you prepared and
19 forwarded to me?

20 A That is the most resent one that we
21 have, yes.

22 MRS. MULLINS: I would ask that it
23 be accepted into evidence.

24 THE COURT: Please hand it to Mrs.
25 Fiore to take a look at it.

1 MRS. MULLINS: Yes.

2 MRS. FIORE: No objection.

3 THE COURT: I'll describe it and
4 admit it in evidence.

5 (Whereupon, a document was received
6 and marked as Defendant's Exhibit A, in
7 evidence, as of this date.)

8 THE COURT: We have Defendant's
9 Exhibit A, which is a copy of the
10 curriculum vite of John J. Annunziata. It's
11 a one-page document and this now in
12 evidence.

13 MRS. MULLINS: Thank you.

14 Q Mr. Annunziata, are you being paid
15 by Mr. Rotenberg and in connection with your
16 services in this case?

17 A Yes.

18 Q Are you charging an hourly rate for
19 your services?

20 A Yes.

21 Q What is your hourly rate?

22 A \$175.00 per hour.

23 MRS. MULLINS: Your Honor, as a
24 result of Mr. Annunziata's testimony I
25 would ask that he be qualified by the Court

1 AS AN EXPERT IN THE FIELD OF CIVIL
2 engineering.

3 THE COURT: Okay, Mrs. Fiore do you
4 wish to be heard.

5 MRS. FIORE: No objection, Your
6 Honor.

7 THE COURT: All right, Mr. Annunziata
8 you are now qualified as and expert witness
9 in the area of civil engineering, please
10 continue with the answering questions.

11 Q Mr. Annunziata, did there come a
12 time that were you contacted by my office in
13 connection with this case?

14 A Yes.

15 Q Do you recall when that was?

16 A Less than a month ago, about a
17 month ago.

18 Q What was your purpose in being
19 involved in the case?

20 A Well, it was suggested that I take
21 a look at a retaining wall at the rear of 5
22 Huguenot Street in Larchmont and I did do that.

23 Q And in connection with your
24 services in evaluating this wall, did you
25 personally inspect the premises including the wall?

1 Q Did you reduce your writing notes
2 to a written document?

3 A Yes.

4 Q Do you have a copy of your report
5 with you?

6 A I have it in my brief case.

7 MRS. MULLINS: I have a copy here,
8 Your Honor.

9 THE COURT: Fine.

10 A I will recognize it.

11 Q I will show this to the witness.

12 A This is the document that I issued.

13 Q Did you furnish me with any other
14 written materials other than the curriculum vite
15 and this report?

16 A Say that again.

17 Q Did you if furnish me or anyone
18 else with any other written documents?

19 A No, I did not.

20 MRS. MULLINS: I will show it to
21 Mrs. Fiore.

22 MRS. FIORE: I have a copy.

23 MRS. MULLINS: I ask that it be
24 offered into evidence.

25 THE COURT: Is there any objection to

1 this document, it appears to be letter
2 prepared by Mr. Annunziata, is there any
3 objection.

4 MRS. FIORE: The report mentions
5 photos enclosed, as long as the record
6 would reflect that photographs are not part
7 of the report then --

8 THE COURT: That is correct, this
9 particular document that is coming into
10 evidence is just two type written pages the
11 exhibit itself does not include pictures.

12 MRS. FIORE: Correct.

13 THE COURT: This document is now in
14 evidence as Defendant's Exhibit B. We will
15 have it marked.

16 (Whereupon Defendant's Exhibit B was
17 received in evidence.)

18 MRS. MULLINS: Thank you, Your Honor.

19 THE COURT: Please continue.

20 Q Could you describe for the Court the
21 wall in question, from the Lafayette side?

22 A From the Lafayette side, you could
23 see a stone wall on the bottom, which is perhaps
24 two-thirds of the height of the wall, possibly
25 three quarters and above that, there is a concrete

1 block wall.

2 The stone wall is quite old. In
3 fact, the block wall is old as well. The stone wall
4 through it's life developed some cracks but it's a
5 heavy gravity wall made of stone.

6 During the life of that wall and
7 not at the time that I could identify, some efforts
8 were made to try to resecure that wall, there were
9 steel rods and plates driven through the stone
10 wall.

11 There were also openings created to
12 allow for drainage to occur. That seemed more, as
13 you look from the Lafayette side into the wall on
14 the right side of wall, the left side of the wall,
15 which is the larger portion does not have that type
16 of work as I recall.

17 The block wall above is about seven
18 courses of concrete block. There are some limited
19 cracks in the wall. There has been a minor amount
20 of displacement. The middle section or the middle
21 left session slid out about three or four inches or
22 something like that.

23 Either as part of the original
24 construction, there were deadman or rods that were
25 put through the wall with plates facing the